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PATENTING REJECTION OVER A PENDING SECOND APPLICATION**Docket Number (Optional)
EMP04-49

In re Application of: Empirix Inc.

Application No. 09/548,203

Filed: April 13, 2000

For: METHOD AND SYSTEM FOR TESTING TECHNOLOGY BASED SOFTWARE COMPONENTS

The owner, Empirix Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/482,178, filed on January 12, 2000, of any patent on the second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney of record.

David W. Rouille

March 7, 2005

Signature

Date

David W. Rouille, Esq.

Typed or printed name

508-366-9600

Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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ATTORNEY DOCKET NO.: EMP04-49IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Theodore M. Osborne, II, Michael V. Glik, Caren H. Baker, George Friedman and Walter G. Vahey
Serial No.: 09/548,203
For: METHOD AND SYSTEM FOR TESTING TECHNOLOGY BASED SOFTWARE COMPONENTS
Filing Date: April 13, 2000
Examiner: Mary J. Steelman
Art Unit: 2122
Conf. No.: 6649

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Enclosed is/are:

- Transmittal Letter (this form, 2 pages, in duplicate), Total Pages: 4;
- Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection over a Pending Second Application, Total Pages: 1;
- Return Receipt Pre-paid Postcard (in duplicate), Total postcards: 2;
- Authorization to charge Deposit Account No. 50-0901, if necessary.

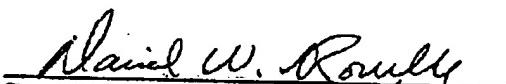
U.S. Application No.: 09/548,203Attorney Docket No.: EMP04-49

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Applicant hereby petitions for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

If the enclosed papers or fees are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,



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